

**SUBSTITUTE FOR  
SENATE BILL NO. 79**

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,"

by amending section 15 (MCL 28.435), as added by 2000 PA 265, and by adding section 9.



KHS

S00419'23 \*\* (S-2)

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## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 9. (1) An individual who stores or leaves a firearm  
2       unattended on premises under the individual's control, and who  
3       knows or reasonably should know that a minor is, or is likely to  
4       be, present on the premises, shall do 1 or more of the following:

5           (a) Store the firearm in a locked box or container.

6           (b) Keep the firearm unloaded and lock the firearm with a  
7       locking device that is properly engaged to render the firearm  
8       inoperable by any individual other than the owner or an authorized  
9       user.

10       (2) An individual who enters onto the premises of another  
11       individual, stores or leaves a firearm unattended on those  
12       premises, and who knows or reasonably should know that a minor is,  
13       or is likely to be, present on the premises, shall do 1 or more of  
14       the following:

15           (a) Store the firearm in a locked box or container.

16           (b) Keep the firearm unloaded and lock the firearm with a  
17       locking device that is properly engaged to render the firearm  
18       inoperable by any individual other than the owner or an authorized  
19       user.

20           (c) Before entering onto the premises, do both of the  
21       following:

22           (i) In the individual's motor vehicle, store the firearm in a  
23       locked box or container in that vehicle, or keep the firearm  
24       unloaded and lock the firearm with a locking device that is  
25       properly engaged to render the firearm inoperable by any individual  
26       other than the owner or an authorized user.

27           (ii) Lock the individual's motor vehicle.

28       (3) An individual is guilty of a misdemeanor punishable by



1 imprisonment for not more than 93 days or a fine of not more than  
2 \$500.00, or both, if the individual violates subsection (1) or (2)  
3 by failing to store or leave a firearm in the required manner and a  
4 minor obtains the firearm.

5 (4) If an individual violates subsection (1) or (2) by failing  
6 to store or leave a firearm in the required manner and, as a result  
7 of the violation, a minor obtains the firearm and discharges it to  
8 inflict injury upon the minor or any other individual, the  
9 individual is guilty of a felony punishable by imprisonment for not  
10 more than 5 years or a fine of not more than \$5,000.00, or both.

11 (5) If an individual violates subsection (1) or (2) by failing  
12 to store or leave a firearm in the required manner and, as a result  
13 of the violation, a minor obtains the firearm and discharges it to  
14 inflict death upon the minor or any other individual, the  
15 individual is guilty of a felony punishable by imprisonment for not  
16 more than 15 years or a fine of not more than \$7,500.00, or both.

17 (6) This section does not apply under any of the following  
18 circumstances:

19 (a) A minor who does all of the following:

20 (i) Obtains a firearm with the permission of the minor's parent  
21 or guardian.

22 (ii) Uses or possesses the firearm while the minor is under the  
23 direct supervision of the minor's parent, guardian, or any  
24 individual who is 18 years of age or older and who is authorized by  
25 the person's parent or guardian.

26 (iii) Uses or possesses that firearm during any of the  
27 following:

28 (A) The minor's employment.

29 (B) Ranching or farming.



1 (C) Target practice, hunting, or instruction in the safe use  
2 of a firearm.

3 (b) A minor who obtains a firearm through the minor's unlawful  
4 entry of any premises or the motor vehicle where the firearm has  
5 been stored.

6 (c) A minor who obtains a firearm while lawfully acting in  
7 self-defense or defense of another.

8 (7) The department of health and human services shall do both  
9 of the following:

10 (a) Inform the public of the penalties for failing to store or  
11 leave a firearm in the manner required under this section.

12 (b) Publish lethal means counseling literature and provide  
13 that literature to federally licensed firearms dealers for use  
14 under section 15.

15 (8) A criminal penalty provided for under this section may be  
16 imposed in addition to any penalty that may be imposed for any  
17 other criminal offense arising from the same conduct.

18 (9) As used in this section:

19 (a) "Locked box or container" means a secure container that is  
20 fully enclosed and locked by a padlock, key lock, combination lock,  
21 or similar locking device to which a minor does not possess the key  
22 or combination.

23 (b) "Locking device" means a trigger lock, cable lock, or  
24 similar lock that prevents a firearm from discharging.

25 (c) "Minor" means an individual less than 18 years of age.

26 Sec. 15. (1) Except as provided in subsection (2), a federally  
27 licensed firearms dealer shall not sell a firearm in this state  
28 unless the sale includes 1 of the following:

29 (a) A commercially available trigger lock or other device



1 designed to disable the firearm and prevent the discharge of the  
2 firearm.

3 (b) A commercially available gun case or storage container  
4 that can be secured to prevent unauthorized access to the firearm.

5 (2) This section does not apply to any of the following:

6 (a) The sale of a firearm to a police officer or a police  
7 agency.

8 (b) The sale of a firearm to a person ~~who~~**that** presents to the  
9 federally licensed firearms dealer 1 of the following:

10 (i) A trigger lock or other device designed to disable the  
11 firearm and prevent the discharge of the firearm together with a  
12 copy of the purchase receipt for the federally licensed firearms  
13 dealer to keep. A separate trigger lock or device and a separate  
14 purchase receipt ~~shall be~~**are** required for each firearm purchased.

15 (ii) A gun case or storage container that can be secured to  
16 prevent unauthorized access to the firearm together with a copy of  
17 the purchase receipt for the federally licensed firearms dealer to  
18 keep. A separate gun case or storage container and a separate  
19 purchase receipt ~~shall be~~**are** required for each firearm purchased.

20 (c) The sale of an antique firearm. As used in this  
21 subdivision, "antique firearm" means that term as defined in  
22 section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

23 (d) The sale or transfer of a firearm if the seller is not a  
24 federally licensed firearms dealer.

25 (3) A federally licensed firearms dealer shall not sell a  
26 firearm in this state unless the firearm is accompanied with, free  
27 of charge, ~~a~~**all of the following:**

28 (a) A brochure or pamphlet that includes safety information on  
29 the use and storage of the firearm in a home environment.



1 (b) A written warning informing the purchaser of the penalties  
2 for failing to store or leave a firearm in the manner required  
3 under section 9.

4 (c) Lethal means counseling literature published by the  
5 department of health and human services under section 9.

6 (4) Upon the sale of a firearm, a federally licensed firearms  
7 dealer shall sign a statement and require the purchaser to sign a  
8 statement stating that the sale is in compliance with subsections  
9 (1), (2), and (3).

10 (5) A federally licensed firearms dealer shall retain a copy  
11 of the signed statements prescribed in subsection (4) and, if  
12 applicable, a copy of the receipt prescribed in subsection (2)(b),  
13 for at least 6 years.

14 (6) A federally licensed firearms dealer in this state shall  
15 post in a conspicuous manner at the entrances, exits, and all  
16 points of sale on the premises where firearms are sold a notice  
17 **informing the reader** that ~~says the following: "You may be~~  
18 ~~criminally and civilly liable for any harm caused by a person less~~  
19 ~~than 18 years of age who lawfully gains unsupervised access to your~~  
20 ~~firearm if unlawfully stored."~~ **failing to store or leave a firearm**  
21 **in the manner required under section 9 is unlawful.**

22 ~~(7) A federally licensed firearms dealer is not liable for~~  
23 ~~damages arising from the use or misuse of a firearm if the sale~~  
24 ~~complies with this section, any other applicable law of this state,~~  
25 ~~and applicable federal law.~~

26 ~~(8) This section does not create a civil action or liability~~  
27 ~~for damages arising from the use or misuse of a firearm or~~  
28 ~~ammunition for a person, other than a federally licensed firearms~~  
29 ~~dealer, who produces a firearm or ammunition.~~



~~(9) Subject to subsections (10) to (12), a political subdivision shall not bring a civil action against any person who produces a firearm or ammunition. The authority to bring a civil action under this section is reserved exclusively to the state and can be brought only by the attorney general. The court shall award costs and reasonable attorney fees to each defendant named in a civil action filed in violation of this subsection.~~

~~(10) Subject to subsection (11), subsection (9) does not prohibit a civil action by a political subdivision based on 1 or more of the following, which the court shall narrowly construe:~~

~~(a) A breach of contract, other contract issue, or an action based on a provision of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, in which the political subdivision is the purchaser and owner of the firearm or ammunition.~~

~~(b) Expressed or implied warranties arising from the purchase of a firearm or ammunition by the political subdivision or the use of a firearm or ammunition by an employee or agent of the political subdivision.~~

~~(c) A product liability, personal injury, or wrongful death action when an employee or agent or property of the political subdivision has been injured or damaged as a result of a defect in the design or manufacture of the firearm or ammunition purchased and owned by the political subdivision.~~

~~(11) Subsection (10) does not allow an action based on any of the following:~~

~~(a) A firearm's or ammunition's inherent potential to cause injury, damage, or death.~~

~~(b) Failure to warn the purchaser, transferee, or user of the firearm's or ammunition's inherent potential to cause injury,~~



1 ~~damage, or death.~~

2 ~~(e) Failure to sell with or incorporate into the product a~~  
 3 ~~device or mechanism to prevent a firearm or ammunition from being~~  
 4 ~~discharged by an unauthorized person unless specifically provided~~  
 5 ~~for by contract.~~

6 ~~(12) Subsections (9) through (11) do not create a civil~~  
 7 ~~action.~~

8 ~~(13) Subsections (9) through (11) are intended only to clarify~~  
 9 ~~the current status of the law in this state, are remedial in~~  
 10 ~~nature, and, therefore, apply to a civil action pending on the~~  
 11 ~~effective date of this act.~~

12 ~~(7) (14) Beginning September 1, 2000, a~~ **A** person who violates  
 13 this section is guilty of a crime as follows:

14 (a) Except as provided in subdivision (b) or (c), the person  
 15 is guilty of a misdemeanor punishable by imprisonment for not more  
 16 than 93 days or a fine of not more than \$500.00, or both.

17 (b) For a second conviction, the person is guilty of a  
 18 misdemeanor punishable by imprisonment for not more than 1 year or  
 19 a fine of not more than \$1,000.00, or both.

20 (c) For a third or subsequent conviction, the person is guilty  
 21 of a felony punishable by imprisonment for not more than 2 years or  
 22 a fine of not more than \$5,000.00, or both.

23 ~~(8) (15) As used in this section:~~

24 (a) "Federally licensed firearms dealer" means a person  
 25 licensed under ~~section 923 of title 18 of the United States Code,~~  
 26 ~~18 U.S.C. USC~~ 923.

27 (b) ~~"Firearm or ammunition"~~ **"Firearm"** includes a component of  
 28 a firearm. ~~or ammunition.~~

29 (c) "Person" means an individual, partnership, corporation,





1 association, or other legal entity.

2 ~~(d) "Political subdivision" means a county, city, village,~~  
3 ~~township, charter township, school district, community college, or~~  
4 ~~public university or college.~~

5 ~~(e) "Produce" means to manufacture, construct, design,~~  
6 ~~formulate, develop standards for, prepare, process, assemble,~~  
7 ~~inspect, test, list, certify, give a warning or instructions~~  
8 ~~regarding, market, sell, advertise, package, label, distribute, or~~  
9 ~~transfer.~~

